

AMENDED IN SENATE AUGUST 12, 2013

AMENDED IN SENATE JULY 10, 2013

AMENDED IN SENATE JUNE 11, 2013

AMENDED IN ASSEMBLY MAY 13, 2013

AMENDED IN ASSEMBLY APRIL 16, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 501

Introduced by Assembly Member Nazarian

February 20, 2013

An act to amend Section 25250.51 of the Health and Safety Code, to amend Section 42950 of the Public Resources Code, and to amend Sections 12200, 12204, and 34601 of, the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 501, as amended, Nazarian. Vehicles.

(1) Existing law prohibits the sale of motor brake friction materials containing specified constituents in excess of specified concentrations. Existing law, however, until December 31, 2023, permits motor vehicle manufacturers and distributors, wholesalers, or retailers to sell brake friction materials that are not certified as compliant with that provision solely for the purpose of depletion of inventories.

This bill would additionally permit motor vehicle dealers to continue to sell or offer for sale brake friction material not certified as compliant, as specified, if the brake friction material was installed before the vehicle was acquired by the dealer.

(2) Existing law defines tire broker to mean a person that arranges for the shipment of used or waste tires to or from a site located within the state, or through the state, as defined. Existing law requires a tire broker to submit periodic information to the department on the used or waste tires arranged to be shipped to the tire broker to, from, or through the state.

This bill would exclude *a tire retailer primarily engaged in the retail sale, service, and installation of new tires on customer vehicles*, and a vehicle dealer, as defined, from the definition of a tire broker.

(3) Existing law establishes the Consumer Motor Vehicle Recovery Corporation (recovery corporation) to provide payments to consumers on eligible claims, including, but not limited to, a claim based on a vehicle dealer or lessor-retailer's failure to remit license or registration fees or failure to pay proceeds of a consignment sale, subject to certain requirements and limitations. Existing law permits a consumer to file an application with the recovery corporation for the payment of the consumer's eligible claim if a dealer or lessor-retailer against whom the claim is asserted has ceased selling and leasing motor vehicles to the general public or has become subject to a petition in bankruptcy.

This bill would expand the definition of "eligible claim," for purposes of those provisions, to include a claim based on the failure of a vehicle dealer or lessor-retailer to provide a consumer who purchased a vehicle from the dealer or lessor-retailer with good title to the vehicle, free from any security interest or other lien, encumbrance, or claim, as specified, or pay to a ~~third~~ 3rd party any amount received from, or contractually obligated to be paid by, a consumer for insurance, service contracts, or goods or services purchased through the dealer or lessor-retailer and to be provided by the ~~third~~ 3rd party.

This bill would require the consumer to provide specified information if the eligible claim is based on the failure to provide good title or the failure to pay 3rd parties for insurance, service contracts, or goods or services.

(4) Existing law excludes from the definition of commercial motor vehicle, for purposes of certain provisions, specified trucks and truck tractors with a gross vehicle weight rating of less than 26,001 pounds, when used solely to tow specified trailers. Existing law prohibits a motor carrier of property from operating a commercial motor vehicle on any public highway in this state, unless it has, among other things, registered with the department its carrier identification number, as

specified, and holds a valid motor carrier permit issued to that motor carrier by the department.

This bill would additionally exclude from the definition of commercial motor vehicle specified trucks and truck tractors, with a gross vehicle rating of less than 26,000 pounds, operated solely to tow specified trailers, including trailers designed to transport watercraft. This bill would also exclude from the definition of commercial motor vehicle specified truck and truck tractors, with a gross vehicle weight rating of less than 16,001 pounds, operated singly in noncommercial use.

(5) This bill would make other technical, nonsubstantive, conforming, and clarifying changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 25250.51 of the Health and Safety Code
2 is amended to read:

3 25250.51. (a) On and after January 1, 2014, any motor vehicle
4 brake friction materials containing any of the following constituents
5 in an amount that exceeds the following concentrations shall not
6 be sold in this state:

7 (1) Cadmium and its compounds: 0.01 percent by weight.

8 (2) Chromium (VI)-salts: 0.1 percent by weight.

9 (3) Lead and its compounds: 0.1 percent by weight.

10 (4) Mercury and its compounds: 0.1 percent by weight.

11 (5) Asbestiform fibers: 0.1 percent by weight.

12 (b) Motor vehicle manufacturers and distributors, wholesalers,
13 or retailers of replacement brake friction materials may continue
14 to sell or offer for sale brake friction materials not certified as
15 compliant with subdivision (a) solely for the purpose of depletion
16 of inventories until December 31, 2023.

17 (c) Notwithstanding subdivision (b), motor vehicle dealers may
18 continue to sell or offer for sale brake friction material not certified
19 as compliant with subdivision (a) if the brake friction material was
20 installed on a vehicle before the vehicle was acquired by the dealer.

21 SEC. 2. Section 42950 of the Public Resources Code is
22 amended to read:

23 42950. For purposes of this chapter, the following definitions
24 apply:

1 (a) “Agricultural purposes” means the use of waste tires as
2 bumpers on agricultural equipment or as a ballast to maintain
3 covers or structures at an agricultural site.

4 (b) (1) “Altered waste tire” means a waste tire that has been
5 baled, shredded, chopped, or split apart. “Altered waste tire” does
6 not mean crumb rubber.

7 (2) “Alteration” or “altering,” with reference to a waste tire,
8 means an action that produces an altered waste tire.

9 (c) “Applicant” means a person seeking to register as a waste
10 tire hauler.

11 (d) “Baled tire” means either a whole or an altered tire that has
12 been compressed and then secured with a binding material for the
13 purpose of reducing its volume.

14 (e) “Common carrier” means a “common carrier,” as defined
15 in Section 211 of the Public Utilities Code.

16 (f) “Crumb rubber” means rubber granules derived from a waste
17 tire that are less than or one-quarter inch or six millimeters in size.

18 (g) “Repairable tire” means a worn, damaged, or defective tire
19 that is retreadable, recappable, or regrooveable, or that can be
20 otherwise repaired to return the tire to use as a vehicle tire, and
21 that meets the applicable requirements of the Vehicle Code and
22 Title 13 of the California Code of Regulations.

23 (h) “Scrap tire” means a worn, damaged, or defective tire that
24 is not a repairable tire.

25 (i) “Tire broker” means a person that arranges for the shipment
26 of used or waste tires to or from a site located within the state, or
27 through the state, as that term may be further defined by the
28 department by regulation. “Tire broker” does not include *a tire*
29 *retailer primarily engaged in the retail sale, service, and*
30 *installation of new tires on customer vehicles, or* a vehicle dealer,
31 as defined in Section 285 of the Vehicle Code.

32 (j) “Tire derived product” means material that meets both of
33 the following requirements:

34 (1) Is derived from a process using waste tires or waste tire
35 equivalents as a feedstock. A process using waste tires or waste
36 tire equivalents includes, but is not limited to, shredding, crumbing,
37 or chipping.

38 (2) Has been sold and removed from the processing facility.

39 (k) “Used tire” means a tire that meets both of the following
40 requirements:

1 (1) The tire is no longer mounted on a vehicle but is still suitable
2 for use as a vehicle tire.

3 (2) The tire meets the applicable requirements of the Vehicle
4 Code and of Title 13 of the California Code of Regulations.

5 (l) “Waste tire” means a tire that is no longer mounted on a
6 vehicle and is no longer suitable for use as a vehicle tire due to
7 wear, damage, or deviation from the manufacturer’s original
8 specifications. A waste tire includes a repairable tire, scrap tire,
9 and altered waste tire, but does not include a tire derived product,
10 crumb rubber, or a used tire.

11 (m) “Waste tire generator” or “waste tire generating business”
12 means a person as defined by Section 40170 whose act or process
13 produces waste tires as defined in Section 42807, causes a waste
14 tire hauler to transport those waste tires, or otherwise causes waste
15 tires to become subject to regulation. “Waste tire generator” or
16 “waste tire generating business” does not include a person who
17 transports 10 or fewer waste tires at any one time.

18 SEC. 3. Section 12200 of the Vehicle Code is amended to read:

19 12200. The following definitions apply to this chapter:

20 (a) “Application” means an application to the recovery
21 corporation for the payment of an eligible claim from the recovery
22 fund that is filed with the recovery corporation after January 1,
23 2009.

24 (b) “Consumer” means a person who either (1) purchased or
25 leased, or became obligated to purchase or lease, a motor vehicle
26 to be used primarily for personal, family, or household purposes
27 from a dealer or lessor-retailer licensed under this code, or (2)
28 consigned for sale a motor vehicle that was used primarily for
29 personal, family, or household purposes to a dealer licensed under
30 this code.

31 (c) “Eligible claim” means an unsatisfied claim for economic
32 loss, not barred by the statutes of limitation, that accrues after July
33 1, 2008, as a result of the failure of a dealer licensed under this
34 code, ~~or~~ or, if applicable, a lessor-retailer licensed under this code,
35 to do any of the following:

36 (1) Remit license or registration fees received or contractually
37 obligated to be paid from a consumer to the department.

38 (2) Pay to the legal owner of a vehicle transferred as a trade-in
39 by a consumer to the dealer or lessor-retailer the amount necessary
40 to discharge the prior credit balance owed to the legal owner.

1 (3) Pay to the lessor registered in accordance with Section
2 4453.5 of a vehicle transferred as a trade-in by a consumer to the
3 dealer or lessor-retailer the amount the dealer or lessor-retailer
4 agreed to pay to the lessor.

5 (4) Pay the amount specified in a consignment agreement to a
6 consumer after the sale of a consigned vehicle.

7 (5) Provide a consumer who purchased a vehicle from the dealer
8 or lessor-retailer with good title to the vehicle, free from any
9 security interest or other lien, encumbrance, or claim, unless
10 otherwise clearly and conspicuously provided for by the written
11 sale agreement.

12 (6) Pay to a third party any amount received from, or
13 contractually obligated to be paid by, a consumer for insurance,
14 service contracts, or goods or services purchased through the dealer
15 or lessor-retailer and to be provided by the third party.

16 (d) "Participant" means a dealer licensed under this code or a
17 lessor-retailer licensed under this code.

18 (e) "Recovery corporation" means the Consumer Motor Vehicle
19 Recovery Corporation.

20 (f) "Recovery fund" means the consumer recovery fund
21 established by the recovery corporation pursuant to Section 12203
22 for the payment of eligible claims.

23 SEC. 4. Section 12204 of the Vehicle Code is amended to read:

24 12204. (a) A consumer may file an application with the
25 recovery corporation for the payment of the consumer's eligible
26 claim if a dealer or lessor-retailer against whom the claim is
27 asserted has ceased selling and leasing motor vehicles to the general
28 public or has become subject to a petition in bankruptcy.

29 (b) (1) The application shall be verified and shall set forth all
30 of the following information:

31 (A) The consumer's name, address, and telephone number.

32 (B) The amount of the eligible claim.

33 (C) A description of the circumstances demonstrating an eligible
34 claim.

35 (D) A statement indicating the consumer's belief that the dealer
36 or lessor-retailer has ceased selling and leasing motor vehicles to
37 the general public or has become subject to a petition in bankruptcy
38 and the reasons for this belief.

39 (E) A statement indicating what action, if any, the applicant has
40 taken to recover the amount of the eligible claim.

1 (F) A statement indicating that the consumer's application for
2 payment does not include any amount for which the consumer has
3 obtained recovery under the dealer's bond required by Section
4 11710.

5 (2) Nothing in this chapter shall be construed to require a
6 consumer to bring a civil action to obtain recovery, file a
7 bankruptcy claim, or file a crime report with a law enforcement
8 agency in order to obtain payment of an eligible claim submitted
9 to the recovery corporation.

10 (c) The application shall be accompanied by a copy of the
11 agreement between the consumer and the dealer or lessor-retailer,
12 unless the agreement is unnecessary to the recovery corporation's
13 determination of the validity of the claim.

14 (d) If the eligible claim is based on the failure to remit license
15 or registration fees, the application shall be accompanied by
16 evidence demonstrating that the consumer paid money or other
17 consideration for the fees, or became obligated to pay the fees,
18 and that the fees had not been remitted. The eligible claim shall
19 be limited to the dollar amount of the license or registration fees
20 not remitted and a late charge or penalty.

21 (e) If the eligible claim is based on the failure to pay the
22 proceeds of a consignment sale, the application shall be
23 accompanied by the consignment agreement, evidence that the
24 consigned vehicle was sold, and by the consumer's verified
25 statement that the consumer did not receive the portion of the
26 proceeds of the sale to which the consumer was entitled. The
27 eligible claim is limited to the dollar amount specified in a written
28 consignment agreement to be paid to the consignor.

29 (f) If the eligible claim is based on the failure to pay the legal
30 owner of the consumer's trade-in vehicle, the application shall be
31 accompanied by a statement from the legal owner of the amount,
32 if any, that he or she received from the dealer or lessor-retailer.
33 The eligible claim is limited to the dollar amount necessary to
34 discharge the credit balance owing on the trade-in vehicle.

35 (g) If the eligible claim is based on the failure to pay the lessor
36 of the consumer's trade-in vehicle, the application shall be
37 accompanied by a statement from the lessor of the amount, if any,
38 that the lessor received from the dealer or lessor-retailer. The
39 eligible claim is limited to the dollar amount necessary to pay the

1 lessor the total amount that the dealer or lessor-retailer agreed with
2 the consumer to pay the lessor.

3 (h) If the eligible claim is based on the failure to provide good
4 title, the application shall be accompanied by a statement from the
5 legal owner or other claimant of the amount, if any, that he or she
6 received from the dealer or lessor-retailer. The eligible claim is
7 limited to the remaining dollar amount necessary to discharge the
8 valid security interest, lien, encumbrance, or other claim clouding
9 title to the vehicle.

10 (i) If the eligible claim is based on the failure to pay third parties
11 for insurance, service contracts, or goods or services, the
12 application shall be accompanied by a statement from the third
13 party of the amount, if any, that he or she received from the dealer
14 or lessor-retailer. The eligible claim is limited to the difference
15 between the dollar amount the consumer paid or was contractually
16 obligated to pay to the dealer or lessor-retailer for the insurance,
17 service contracts, or goods or services purchased through the dealer
18 or lessor-retailer and to be provided by the third party and the
19 dollar amount actually received by the third party from the dealer
20 or lessor-retailer for the insurance, service contracts, or goods or
21 services.

22 (j) The recovery corporation may require reasonable additional
23 information designed to facilitate payment of eligible claims.

24 (k) (1) For claims that have accrued on or after July 1, 2008,
25 and before January 1, 2009, the application shall be filed within
26 18 months of the date upon which the dealer or lessor-retailer
27 ceased selling or leasing motor vehicles to the general public or
28 became subject to a petition in bankruptcy.

29 (2) For claims that have accrued on or after January 1, 2009,
30 the application shall be filed within one year of the date upon which
31 the dealer or lessor-retailer ceased selling or leasing motor vehicles
32 to the general public or became subject to a petition in bankruptcy.

33 SEC. 5. Section 34601 of the Vehicle Code is amended to read:

34 34601. (a) As used in this division, “motor carrier of property”
35 means any person who operates any commercial motor vehicle as
36 defined in subdivision (c). “Motor carrier of property” does not
37 include a household goods carrier, as defined in Section 5109 of
38 the Public Utilities Code, a household goods carrier transporting
39 used office, store, and institution furniture and fixtures under its
40 household goods carrier permit pursuant to Section 5137 of the

1 Public Utilities Code, persons providing only transportation of
2 passengers, or a passenger stage corporation transporting baggage
3 and express upon a passenger vehicle incidental to the
4 transportation of passengers.

5 (b) As used in this division, “for-hire motor carrier of property”
6 means a motor carrier of property as defined in subdivision (a)
7 who transports property for compensation.

8 (c) (1) As used in this division, except as provided in paragraph
9 (2), a “commercial motor vehicle” means any self-propelled vehicle
10 listed in subdivisions (a), (b), (f), (g), and (k) of Section 34500,
11 any motortruck of two or more axles that is more than 10,000
12 pounds gross vehicle weight rating, and any other motor vehicle
13 used to transport property for compensation.

14 (2) As used in this division, “commercial motor vehicle” does
15 not include any of the following:

16 (A) Vehicles identified in subdivision (f) of Section 34500, if
17 the gross vehicle weight rating of the towing vehicle is 10,000
18 pounds or less.

19 (B) Vehicles identified in subdivision (g) of Section 34500, if
20 the hazardous material transportation does not require the display
21 of placards under Section 27903, a license under Section 32000.5,
22 or a hazardous waste transporter registration under Section 25163
23 of the Health and Safety Code, and the vehicle is not operated in
24 commercial use.

25 (C) Vehicles operated by a household goods carrier, as defined
26 in Section 5109 of the Public Utilities Code, under the household
27 goods carrier permit pursuant to Section 5137 of that code.

28 (D) Vehicles operated by a household goods carrier to transport
29 used office, store, and institution furniture and fixtures under its
30 household goods carrier permit pursuant to Section 5137 of the
31 Public Utilities Code.

32 (E) Pickup trucks as defined in Section 471, if the conditions
33 in subparagraphs (A) and (B) are also met.

34 (F) Two-axle daily rental trucks with a gross vehicle weight
35 rating of less than 26,001 pounds, when operated in noncommercial
36 use.

37 (G) Motortrucks or two-axle truck tractors, with a gross vehicle
38 weight rating of less than 26,001 pounds, operated solely to tow
39 a camp trailer, trailer coach, fifth-wheel travel trailer, trailer
40 designed to transport watercraft, or utility trailer. Vehicle

1 combinations described in this subparagraph are not subject to
2 Section 27900, 34501.12, or 34507.5.

3 (H) Motortrucks or two-axle truck tractors, with a gross vehicle
4 weight rating of less than 16,001 pounds, operated singly in
5 noncommercial use.

6 (d) For purposes of this chapter, “private carrier” means a motor
7 carrier of property, who transports only his or her own property,
8 including, but not limited to, the delivery of goods sold by that
9 carrier.

O